



Idaho Department of Environmental Quality Draft §401 Water Quality Certification

October 28, 2013

404 Permit Application Numbers: NWW #2013-584-C09

Applicant/Authorized Agent: Yellowstone Pipe Line Company/Dan Nebel, Terracon Consultants, Inc.

Project Locations: The six crossing removals associated with this application are located in the North Fork Coeur d'Alene River unless otherwise indicated:

- River mile post 456.6 at T50N R3E Section 26, near the intersection of Old River Road and Coeur d'Alene River Roads, Prichard (2.5 miles west of Babbin Junction)
- River mile post 464.7 at T50N, R2E section 23, approximately ½ mile downstream of Old River Road and USFS Road #400 (Steamboat Creek)
- River mile post 468.1 at T 49N, R2E Section 4, approximately 1.4 miles north of Little North Fork Road and Coeur d'Alene River Road
- River mile post 468.4 at T49N, R2E Section 4, approximately 1.5 miles north of Little North Fork Road and Coeur d'Alene River Road
- River mile post 472 at T49N, R2E Section 19, approximately 1.5 miles north of Enaville
- River mile post 476 at T49N, R1E Section 36, in the Coeur d'Alene River near the City of Kingston

Receiving Water Body: North Fork Coeur d'Alene River and Coeur d'Alene River

Pursuant to the provisions of Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended; 33 U.S.C. Section 1341(a)(1); and Idaho Code §§ 39-101 et seq. and 39-3601 et seq., the Idaho Department of Environmental Quality (DEQ) has authority to review activities receiving Section 404 dredge and fill permits and issue water quality certification decisions.

DEQ has reviewed the facts and the figures presented in the joint application for permit for the above-referenced activity. DEQ has also reviewed and considered other material and information related to the proposed activity, including but not limited to the following:

- Biological Assessment Addendum dated September 23, 2013;
- North Fork Coeur d'Alene River and Coeur d'Alene River Crossing For Yellowstone Pipe Line System Prichard to Cataldo, Idaho Table;
- All Removals Combined Terracon plans dated 9/3/2013;
- Straw Wattle Installation Guide revised 1/2008;
- Construction Detail B and C, Terracon dated Dec, 2012;
- Construction Detail D Terracon dated Dec, 2012;

- Figures from Phillips 66 Pipeline LLC Engineering Alignment Sheets 1-11 Terracon Dated 2/14/2011;
- Vertical Removal (Lift) without Excavation in Channel, Terracon dated October 2013.

Based upon review and consideration of the information listed above, DEQ certifies that if the permittee(s) comply with the terms and conditions imposed by the above-referenced permits, along with the conditions set forth in this water quality certification, then there is reasonable assurance the activity will comply with the applicable requirements of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, the Idaho Water Quality Standards (WQS) (IDAPA 58.01.02), and other appropriate water quality requirements of state law.

This certification does not constitute authorization of the permitted activities by any other state or federal agency or private person or entity. This certification does not excuse the permit holder from the obligation to obtain any other necessary approvals, authorizations, or permits.

Project Description

Yellowstone Pipe Line Company has revised their earlier proposal (June 10, 2013 Corps request for 401 certification) and now proposes to remove five abandoned pipeline crossings in the North Fork Coeur d'Alene River and remove one abandoned crossing in the Coeur d'Alene River. The abandoned sections of pipe have been purged and cleaned to ensure there is no residual product. Rules related to the Institutional Controls Program within the Bunker Hill Superfund site will be adhered to, where applicable.

YPL has revised their method of removing the pipes which will minimize turbidity. Rather than open wet excavation, the pipe will be cut at each bank and track hoes fitted with slings will lift the pipe at each end while another track hoe fitted with a hydraulic vibratory plate will aid in lifting the pipe to the surface. No in-channel excavation is required for any of the removals. The pipe will not be dragged on the riverbed.

Antidegradation Review

The WQS contain an antidegradation policy providing three levels of protection to water bodies in Idaho (IDAPA 58.01.02.051).

- Tier 1 Protection. The first level of protection applies to all water bodies subject to Clean Water Act jurisdiction and ensures that existing uses of a water body and the level of water quality necessary to protect those existing uses will be maintained and protected (IDAPA 58.01.02.051.01; 58.01.02.052.01). Additionally, a Tier 1 review is performed for all new or reissued permits or licenses (IDAPA 58.01.02.052.07).
- Tier 2 Protection. The second level of protection applies to those water bodies considered high quality and ensures that no lowering of water quality will be allowed unless deemed necessary to accommodate important economic or social development (IDAPA 58.01.02.051.02; 58.01.02.052.08).

- Tier 3 Protection. The third level of protection applies to water bodies that have been designated outstanding resource waters and requires that activities not cause a lowering of water quality (IDAPA 58.01.02.051.03; 58.01.02.052.09).

DEQ is employing a water body by water body approach to implementing Idaho's antidegradation policy. This approach means that any water body fully supporting its beneficial uses will be considered high quality (IDAPA 58.01.02.052.05.a). Any water body not fully supporting its beneficial uses will be provided Tier 1 protection for that use, unless specific circumstances warranting Tier 2 protection are met (IDAPA 58.01.02.052.05.c). The most recent federally approved Integrated Report and supporting data are used to determine support status and the tier of protection (IDAPA 58.01.02.052.05).

Pollutants of Concern

The primary pollutant of concern for this project is sediment in the form of turbidity and suspended bedload. There is also a possibility of mobilizing sediments that contain several heavy metals (cadmium, lead, zinc and mercury). Given that the revised method of pipeline removal will minimally disturb deeper sediments which are more likely to be contaminated, metals monitoring is only required under certain circumstances. To verify that deeper sediments are not day-lighted, DEQ will be on-site to observe some of these removals. Future removals may require additional metals monitoring based on these observations. As part of the Section 401 water quality certification, DEQ is requiring the applicant comply with various conditions to protect water quality and to meet Idaho WQS, including the water quality criteria applicable to sediment.

Receiving Water Body Level of Protection

These projects are located on Coeur d'Alene River and North Fork Coeur d'Alene River within the Upper Coeur d'Alene and Coeur d'Alene Lake assessment units (AU): 17010301PN001_05 North Fork Coeur d'Alene River, below Prichard Creek; and 17010303PN016_06 Coeur d'Alene River from the South Fork Coeur d'Alene River to Latour Creek. The North Fork Coeur d'Alene River has the following designated beneficial uses: cold water aquatic life, domestic water supply, primary contact recreation, and salmonid spawning. The Coeur d'Alene River is designated as having cold water aquatic life and primary contact recreation beneficial uses. In addition to these designated uses, all Waters of the State are protected for agricultural and industrial water supply, wildlife habitat and aesthetics (IDAPA 58.01.02.100).

The cold water aquatic life uses in the Coeur d'Alene River and North Fork Coeur d'Alene River are not fully supported due to excess cadmium, lead, zinc and temperature. The North Fork Coeur d'Alene River cold water aquatic life use is not fully supported due to flow regime alterations, physical substrate habitat alterations, excess sedimentation/siltation and temperature (2010 Integrated Report). The primary contact recreation beneficial use is fully supported in both rivers. As such, DEQ will provide Tier 1 protection only for the aquatic life use and Tier 2 protection, in addition to Tier 1, for the recreation beneficial use (IDAPA 58.01.02.051.02; 58.01.02.051.01).

Protection and Maintenance of Existing Uses (Tier 1 Protection)

As noted above, a Tier 1 review is performed for all new or reissued permits or licenses, applies to all waters subject to the jurisdiction of the Clean Water Act, and requires demonstration that existing uses and the level of water quality necessary to protect existing uses shall be maintained and protected. The numeric and narrative criteria in the WQS are set at levels that ensure protection of designated beneficial uses.

Water bodies not supporting existing or designated beneficial uses must be identified as water quality limited, and a total maximum daily load (TMDL) must be prepared for those pollutants causing impairment. The North Fork Coeur d'Alene River has an EPA-approved TMDL for sediment.

The project must be consistent with the *Subbasin Assessment and Total Maximum Daily Loads of the North Fork Coeur d'Alene River* (DEQ, 2001). Sediment loading to these rivers will be avoided by using the revised pipeline removal method and through implementation of best management practices (BMPs) designed to prevent the mobilization of fines from the river bed and banks. Additional measures taken to meet the sediment TMDL are erosion control BMPs placed on the river banks, temporary erosion control placed around excavated soil on top of the river banks, carrying rather than dragging the pipe out of the river, no fill placed in the river channel, use of a vibratory plate to aid in pipe removal, and no digging in the river channel. Turbidity monitoring and compliance with water quality standards are required during the in-water work. Stream banks will be restored using best management practices to prevent erosion, any excavated shrubs will be replanted and the area reseeded.

During the construction phase, the applicant will implement, install, maintain, monitor, and adaptively manage best management practices (BMPs) directed toward reducing erosion and minimizing turbidity levels in receiving water bodies downstream of the projects. In addition, permanent erosion and sediment controls will be implemented, which will minimize or prevent future sediment contributions from the project area. As long as the project is conducted in accordance with the provisions of the project plans, Section 404 permit, and conditions of this certification, then there is reasonable assurance the project will comply with the state's numeric and narrative criteria. These criteria are set at levels that protect and maintain designated and existing beneficial uses.

There is no available information indicating the presence of any existing beneficial uses aside from those that are already designated and discussed above; therefore, the permit ensures that the level of water quality necessary to protect both designated and existing uses is maintained and protected in compliance with the Tier 1 provisions of Idaho's WQS (IDAPA 58.01.02.051.01 and 58.01.02.052.07).

High-Quality Waters (Tier 2 Protection)

The Coeur d'Alene River and North Fork Coeur d'Alene River are considered high quality for recreational beneficial uses. As such, the water quality relevant to recreational beneficial uses of these rivers must be maintained and protected, unless a lowering of water quality is deemed necessary to accommodate important social or economic development.

To determine whether degradation will occur, DEQ must evaluate how the permit issuance will affect water quality for each pollutant that is relevant to recreational beneficial uses of the Coeur d'Alene River and North Fork Coeur d'Alene River (IDAPA 58.01.02.052.06). These pollutants include the following: *E. coli*, phosphorus and mercury. The pollutants of concern for this project are sediment, cadmium, lead, zinc and mercury. Sediment is not a pollutant relevant to recreational uses. Furthermore, this project is not expected to contribute *E. coli* or phosphorus to either river. Due to the implementation of a revised method for pipeline removal, metal bearing sediments are not anticipated to be mobilized. Therefore, this project will not result in a lowering of water quality with respect to any pollutant relevant to the Tier 2 protection for this water body. As such, the project complies with IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.06.

Permanent erosion and sediment controls must be implemented, which will minimize or prevent future sediment contributions from the project area. Although this project may result in minimal short-term sediment impacts to the water body, DEQ does not expect long-term impacts or degradation to the Coeur d'Alene Lake or Upper Coeur d'Alene AU or the Coeur d'Alene River and North Fork Coeur d'Alene River. Therefore, DEQ concludes that this project complies with the Tier 2 provisions of Idaho's WQS (IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.06).

Conditions Necessary to Ensure Compliance with Water Quality Standards or Other Appropriate Water Quality Requirements of State Law

General Conditions

1. This certification is conditioned upon the requirement that any modification (e.g., change in BMPs, work windows, etc.) of the permitted activity shall first be provided to DEQ for review to determine compliance with Idaho WQS and to provide additional certification pursuant to Section 401. Such modifications may not be implemented until DEQ has determined whether additional certification is necessary.
2. DEQ reserves the right to modify, amend, or revoke this certification if DEQ determines that, due to changes in relevant circumstances—including without limitation, changes in project activities, the characteristics of the receiving water bodies, or state WQS—there is no longer reasonable assurance of compliance with WQS or other appropriate requirements of state law.
3. If ownership of the project changes, the certification holder shall notify DEQ, in writing, upon transferring this ownership or responsibility for compliance with these conditions to another person or party. The new owner/operator shall request, in writing, the transfer of this water quality certification to his/her name.
4. A copy of this certification must be kept on the job site and readily available for review by any contractor working on the project and any federal, state, or local government personnel.
5. Project areas shall be clearly identified in the field prior to initiating land-disturbing activities to ensure avoidance of impacts to waters of the US beyond project footprints.

6. The applicant shall provide access to the project site and all mitigation sites upon request by DEQ personnel for site inspections, monitoring, and/or to ensure that conditions of this certification are being met.
7. The applicant is responsible for all work done by contractors and must ensure the contractors are informed of and follow all the conditions described in this certification and the Section 404 permit.
8. If this project disturbs more than 1 acre and there is potential for discharge of stormwater to waters of the US, coverage under the EPA Stormwater Construction General Permit *must* be obtained. More information can be found at <http://yosemite.epa.gov/R10/WATER.NSF/NPDES+Permits/Region+10+CGP+resources>.

River Bank and Access Points: Erosion and Sediment Control

1. Disturbed areas suitable for vegetation shall be planted utilizing vegetation initially removed from the site, supplemented with additional seeding, and with the addition of woody vegetation planted on the river banks in sufficient quantities when established, will minimize subsequent soil erosion and stabilize the banks. Woody species such as willow, dogwood and cottonwood are suitable.
2. Permanent erosion and sediment control measures on river banks and access locations shall be installed in a manner that will provide long-term sediment and erosion control to prevent excess sediment from entering waters of the state.
3. Erosion control BMPs shall be monitored for short and long term effectiveness and supplemented if they are not effective.
4. All construction debris shall be properly disposed of so it cannot enter waters of the state and cause water quality degradation.
5. Sediment from disturbed areas that is tracked by vehicles onto pavement must not be allowed to leave the site in amounts that would reasonably be expected to enter waters of the state. Placement of clean aggregate at all construction entrances or exits and other BMPs such as truck or wheel washes, if needed, must be used when earth-moving equipment will be leaving the site and traveling on paved surfaces.
6. Disturbance of wetlands and riparian vegetation shall be kept to a minimum.
7. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
8. If authorized work results in unavoidable vegetative disturbance, riparian and wetland vegetation shall be successfully reestablished to function for water quality benefit at pre-project levels or improved at the completion of authorized work.

In-water Work and Turbidity

1. Heavy equipment working in wetlands shall be placed on mats or suitably designed pads to prevent damage to wetlands.
2. Work in waters of the state shall be restricted to areas specified in the application.
3. Mechanized equipment shall be stored above the ordinary high water mark of the rivers.
4. Turbidity resulting from this activity must be mitigated to prevent violations of the turbidity standard as stipulated under the Idaho WQS (IDAPA 58.01.02.250.02.e). Any

violation of this standard must be reported to the DEQ regional office immediately at 208-666-4605 (voice mail is acceptable).

Monitoring and Compliance Requirements

The permittee must monitor and record (in a daily log) stream turbidity levels during work below ordinary high water, compare turbidity caused by authorized actions to background levels, and adapt activities to minimize project-caused turbidity.

Idaho's water quality standards for the protection of cold water aquatic life beneficial uses states: *Turbidity, below any applicable mixing zone set by the Department, shall not exceed background turbidity by more than 50 NTU instantaneously or more than twenty-five NTU for more than 10 days consecutively* (IDAPA 58.01.02.250.02.e).

To ensure compliance with Idaho's WQS, required monitoring steps shall include the following:

- 1) Choose and identify the following locations for each crossing:
 - a. Background location: A relatively undisturbed location unaffected by the construction activity, up-current from the permitted activity; and,
 - b. Compliance location: A location downcurrent from the permitted activity, within any visible plume, at the distance that corresponds to the size of the waterbody where work is taking place as listed on the table below:

WETTED STREAM WIDTH	COMPLIANCE DISTANCE
Up to 30 feet	50 feet
>30 feet to 100 feet	100 feet
>100 feet to 200 feet	200 feet
>200 feet	300 feet

- 2) Conduct Compliance Monitoring
 - a. During work when the pipe is being lifted, measure turbidity at both background and compliance locations at the frequency directed in the tables below and record the date, time, location, and turbidity measurements in the daily log. The permittee must also record all controls and practices implemented at the start of the work.
 - b. Turbidity measurements must be representative of stream turbidity when the activity is being conducted. *Measurements cannot be taken during a cessation of activity.*
 - c. If the project causes turbidity levels to increase above 50 NTU over background, the permittee must implement additional controls and practices, resume work, and

monitor both points again. A description of the additional controls and the date, time, and location where they are implemented must be recorded in the daily log.

COMPLIANCE MONITORING WITH A TURBIDIMETER		
ALLOWABLE EXCEEDANCE IN TURBIDITY	ACTION REQUIRED AT 1ST MONITORING INTERVAL	ACTION REQUIRED AT 2ND MONITORING INTERVAL
0 to 24 NTU above background	Continue to monitor every 2 hours	Continue to monitor every 2 hours
25 to 49 NTU above background	Continue to monitor every 2 hours	STOP work after 8 hours/24-hour period
25 NTU above background for 10 or more consecutive days	STOP work follow instructions in 2.c. above	
50 NTU or more above background (first occurrence)	STOP work follow instructions in 2.c. above	
50 NTU or more above background (second occurrence)	STOP work follow instructions in 2.c. above <u>and</u> sample for the presence of metals per instructions under paragraph 1 of Hazardous and Deleterious Materials section.	

Reporting

Copies of daily logs for turbidity monitoring must be made available to DEQ and other local, state and federal regulatory agencies upon request. The log must include:

- 1) Background NTUs, compliance point NTUs, comparison of the points in NTUs, and location, time, and date for each reading.
- 2) A narrative discussing all exceedances, controls applied and their effectiveness, subsequent monitoring, work stoppages, and any other actions taken.

Management of Hazardous or Deleterious Materials

1. Sampling for the presence of dissolved metals (cadmium, lead and zinc) shall occur when the 50 NTU over background has twice been exceeded and every time thereafter at the subject crossing. Water column samples shall be taken in the plume that is causing the turbidity exceedance. At a minimum, two samples (background and compliance locations) for each dissolved metal per turbidity exceedance are required. Sampling locations shall be the same as those for turbidity. EPA analytical method 200.8 – ICP-MS shall be used for cadmium and lead, and 200.7 – ICP-SAS shall be used for zinc. Location, time and date of sampling shall be recorded in the daily log as described in the previous section. Laboratory results including QA/QC shall be attached to the daily log.

2. Petroleum products and hazardous, toxic, and/or deleterious materials shall not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of waters of the state. Adequate measures and controls must be in place to ensure that those materials will not enter waters of the state as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third-party activities.
3. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
4. Daily inspections of all fluid systems on equipment to be used in or near waters of the state shall be done to ensure no leaks or potential leaks exist prior to equipment use. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
5. Prior to use, equipment and machinery entering the river shall be steam cleaned of oils and grease and invasive aquatic species in an upland location or staging area with appropriate wastewater controls and treatment prior to entering a water of the state. Any wastewater or wash water must not be allowed to enter a water of the state.
6. Emergency spill procedures shall be in place including a spill response kit (e.g., oil absorbent booms or other equipment).
7. Any release that causes a sheen (of any size) in waters of the state must be reported immediately to the National Response Center at 1-800-424-8802 and the Idaho State Communication Center (1-800-632-8000).

Required Notification

The permittee must notify June Bergquist, DEQ Coeur d'Alene Regional Office one week prior to start of work by leaving a voice message at 208-666-4605.

Right to Appeal Final Certification

The final Section 401 Water Quality Certification may be appealed by submitting a petition to initiate a contested case, pursuant to Idaho Code § 39-107(5) and the "Rules of Administrative Procedure before the Board of Environmental Quality" (IDAPA 58.01.23), within 35 days of the date of the final certification.

Questions or comments regarding the actions taken in this certification should be directed to June Bergquist, Coeur d'Alene Regional Office at 208-666-4605 or via email at june.bergquist@deq.idaho.gov.

DRAFT

Daniel Redline
Regional Administrator
Coeur d'Alene Regional Office